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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,985	04/08/2004	Jerry Snider	PGI6044P2581US	9038

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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER
500 W. MADISON STREET
SUITE 3800
CHICAGO, IL 60661

EXAMINER

DANIELS, MATTHEW J

ART UNIT	PAPER NUMBER
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1732

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/820,985

Applicant(s)

SNIDER ET AL.

Examiner

Matthew J. Daniels

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6, 9 and 12-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 9 and 12-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. **Claims 1-4, 6, 9, 12, and 17-19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Pung (WO 9925318) in view of Kalwaites (USPN 3681182). **As to Claim 1**, Pung teaches a method of making a nonwoven cleaning article (see entire document) comprising the steps of:

a. providing a nonwoven fabric, wherein said nonwoven fabric is subject to hydraulic energy upon a three-dimensional image transfer device so as to simultaneously entangle and impart at least a first three-dimensional image and a second three-dimensional image into said fabric forming a nonwoven fabric with intercalated three-dimensional images (Page 3, line 97 to Page 5, line 173); and

b. providing a cleansing composition comprising an effective amount of a cleansing surfactant, said cleansing composition being coated onto or impregnated into said substrate to the extent of from 50% to 500% by weight of the substrate (Page 26, line 897-900).

Pung does not explicitly disclose a method in which the first three-dimensional image and second three-dimensional images are graphically dissimilar from one another and are a first woven or knit pattern and a second woven or knit pattern.

However, Kalwaites teaches a method which imparts first and second woven or knit patterns, wherein the first and second patterns are graphically dissimilar (Fig. 10, note the two differently sized and shaped intercalated decorative elements).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Kalwaites into that of Pung because Pung clearly desires alteration of the appearance by hydroentangling (pages 4 and 5), which Kalwaites provides (2:34-72), and because doing so would provide a fabric having a considerable aesthetic appeal (Kalwaites, 2:65-67) which simulates fancy woven and knitted fabrics such as lace and crocheted fabrics (6:34-36).

As to Claim 2, Pung's cleansing composition is aqueous (Page 5, line 174). **As to Claim 3**, Pung teaches a cleansing composition selected from fragrances and organic solvents (Page 25, line 858-874 and Page 24, line 852) or a combination thereof. **As to Claim 4**, Pung teaches a method of making a nonwoven cleaning article (see entire document) comprising the steps of:

- a. providing a nonwoven fabric, wherein said nonwoven fabric is subject to hydraulic energy upon a three-dimensional image transfer device so as to simultaneously entangle and impart at least a first three-dimensional image and a second three-dimensional image into said fabric forming a nonwoven fabric with intercalated three-dimensional images (Page 3, line 97 to Page 5, line 173); and

- b. providing a cleansing composition comprising an effective amount of a cleansing surfactant, said cleansing composition being coated onto or impregnated into said substrate to the extent of from 50% to 500% by weight of the substrate (Page 26, line 897-900).

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Pung does not explicitly disclose a method in which the first three-dimensional image and second three-dimensional images are graphically dissimilar from one another and impart first and second woven knit patterns.

However, Kalwaites teaches a method which imparts first and second woven or knit patterns, wherein the first and second patterns are graphically dissimilar (Fig. 10, note the two differently sized and shaped intercalated decorative elements).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Kalwaites into that of Pung because Pung clearly desires alteration of the appearance by hydroentangling (pages 4 and 5), which Kalwaites provides (2:34-72), and because doing so would provide a fabric having a considerable aesthetic appeal (Kalwaites, 2:65-67) which simulates fancy woven and knitted fabrics such as lace and crocheted fabrics (6:34-36).

As to Claim 6, Pung teaches at least colorants (Page 25, line 868). **As to Claim 9**, Pung teaches at least paraffinic solvents (Page 24, line 852-853). **As to Claim 12**, Pung teaches at least alcohols and abrasives (Page 24, line 852 and Page 25, line 866). **As to Claims 17-19**, the article of Pung or the article of the combined method could be used as a home care cleaning article, an industrial cleaning article, and a medical cleaning article.

2. **Claims 13-16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Pung (WO 9925318) in view of Kalwaites (USPN 3681182), and further in view of Everhart (USPN 5801107) and Yang (USPN 5824352). **As to Claims 13-16**, Pung clearly desires portions having differing basis weights (page 5, lines 149-160), but Pung is silent to simulating the knit patterns

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as recited in Claims 13-16. Firstly, the claims appear to admit that these limitations are directed only to particular aesthetic properties (see “aesthetic property” in each of Claims 13-16).

However, it has been generally held that matters relating to ornamentation only which have no mechanical function cannot be relied upon to patentably distinguish claimed inventions from the prior art. See MPEP 2144.04(I) and *In re Seid*, 161 F.2d 229, 73 USPQ 431 (CCPA 1947)

(Claim was directed to an advertising display device comprising a bottle and a hollow member in the shape of a human figure from the waist up which was adapted to fit over and cover the neck of the bottle, wherein the hollow member and the bottle together give the impression of a human body. Appellant argued that certain limitations in the upper part of the body, including the arrangement of the arms, were not taught by the prior art. The court found that matters relating to ornamentation only which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art.).

Alternatively, Everhart and Yang teach that it was conventional to use water pressure to form patterns that simulate tricot (Yang, title) and woven twill (Everhart, 14:4) patterns.

Although Everhart is silent to “right-hand” and “left-hand” twill designs, the Examiner asserts that in view of Everhart’s teaching of simulated twill, either or both handed designs would have been obvious. It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the methods of Everhart and Yang into that of Pung in order to provide a variety of simulated twill and tricot designs which would simulate more expensive woven fabrics.

Response to Arguments

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3. Applicant's arguments filed 20 October 2006 have been fully considered but they are not persuasive. The arguments appear to be on the following grounds:

a) None of the cited references teaches simultaneously entangling and imparting first and second three-dimensional images to a fabric with each having a different woven or knit pattern.

4. These arguments are not persuasive for the following reasons:

a) The Examiner notes that the claimed invention is a *method of making* a nonwoven article. The arguments have not pointed out any *method* limitations that are not taught by the reference, and appear to be drawn only to an asserted difference in configuration of the graphical images on the surface of the article. These limitations are taught by Kalwaites.

However, it should also be noted that courts have generally held that matters relating to ornamentation only which have no mechanical function cannot be relied upon to patentably distinguish claimed inventions from the prior art. See MPEP 2144.04(I) and *In re Seid*, 161 F.2d 229, 73 USPQ 431 (CCPA 1947) (Claim was directed to an advertising display device comprising a bottle and a hollow member in the shape of a human figure from the waist up which was adapted to fit over and cover the neck of the bottle, wherein the hollow member and the bottle together give the impression of a human body. Appellant argued that certain limitations in the upper part of the body, including the arrangement of the arms, were not taught by the prior art. The court found that matters relating to ornamentation only which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art.).

The Examiner asserts that a difference in configuration of the article where all method limitations are taught would be insufficient to distinguish the claimed invention from the reference to Pung under 35 USC 103(a). Additionally, the particular simulated weaves now claimed are taught by the references cited above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Daniels whose telephone number is (571) 272-2450. The examiner can normally be reached on Monday - Friday, 8:00 am - 4:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJD 1/5/07




CHRISTINA JOHNSON
SUPERVISORY PATENT EXAMINER

1/8/07